

TO: Chief Elected Officials  
Steering Committee

FROM: Craig E. Hartzer  
Commissioner

DATE: September 13, 1999

SUBJECT: DWD Communication # 99-11  
The Nondiscrimination Requirements of the Workforce Investment Act

RE: All WIA Funding Recipients

PURPOSE

To communicate the nondiscrimination and equal opportunity requirements of the Workforce Investment Act (WIA).

RESCISSION

N/A

CONTENTS

Section 188 of the WIA prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIA Title I-financially assisted program or activity. The following requirements are taken from the regulations at 29 CFR part 37 and must be incorporated into the systems and practices of all recipients for assurances of nondiscrimination. Any program or activity that receives federal financial assistance under WIA Title 1 is a recipient and therefore subject to these requirements.

◆ DESIGNATION OF EQUAL OPPORTUNITY OFFICER

Every recipient must designate an Equal Opportunity (EO) Officer except small recipients and service providers. A small recipient is defined as having fewer than 15 beneficiaries during the grant year and employing less than 15 employees full-time.

The EO Officer must be a senior level employee; must be qualified in education, experience & training, must not be in a position that would pose a conflict of interest; must have sufficient staff to carry out his/her responsibilities; may have other duties, but responsibilities as EO Officer must take priority.

The Chief Legal Counsel of the Department of Workforce Development (DWD), currently Elizabeth L. White, is the DWD EO Officer and will serve as chief liaison for the state to the Department of Labor- Civil Rights Center (CRC). She may be reached at the Department of Workforce Development, 10 North Senate- Room 105, Indianapolis, IN. 46204. The telephone number is (317) 232-3268.

Each recipient is to designate and publish the name and contact information of their EO Officer. The local EO Officer will be responsible for handling complaints of discrimination and facilitating the assurances of the nondiscrimination requirements.

The DWD EO Officer will be responsible for providing training and technical assistance to local EO officers.

#### ◆ NOTICE & COMMUNICATION REQUIREMENTS

DWD will provide the required notice with the prescribed language to the local Workforce Investment Boards (WIBs).

The WIBs must ensure that the prescribed notice is provided to registrants, applicants, and eligible applicants/registrants, participants, applicants for employment and employees, unions or professional organizations that hold collective bargaining or professional agreements with the recipient, subrecipients that receive WIA Title 1 funds; and members of the public, including those with impaired vision or hearing. WIBs must also ensure that communication with individuals with disabilities are as effective as communication with others.

Participants are to provide acknowledgement of the notice, either electronically if their records are maintained electronically, or by their signature to the notice where case files are maintained.

The notice must also be provided in languages other than English where need is determined.

All brochures, pamphlets, and other publications which promote WIA programs must include the following tag line: “This WIA Title 1-funded program/activity is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.” Where a telephone number is provided, the materials must also include a TDD/TTY or relay service number.

#### ◆ REVIEW ASSURANCES, JOB TRAINING PLANS, CONTRACTS, POLICIES

Each application for financial assistance under Title 1 of WIA must include the following assurance language:

“As a condition to the award of financial assistance from the Department of Labor under Title 1 of WIA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:  
**Section 188 of the Workforce Investment Act of 1998** (WIA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant

authorized to work in the United States or participation in any WIA Title 1-financially assisted program or activity;

**Title VI of the Civil Rights Act of 1964**, as amended, which prohibits discrimination on the basis of race, color and national origin;

**Section 504 of the Rehabilitation Act of 1973**, as amended, which prohibits discrimination against qualified individuals with disabilities;

**The Age Discrimination Act of 1975**, as amended, which prohibits discrimination on the basis of age, and

**Title IX of the Education Amendments of 1972**, as amended, which prohibits discrimination on the basis of sex in educational programs.

**The grant applicant also assures** that it will comply with 29 CFR part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIA Title 1-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIA Title 1-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance."

The assurance is considered incorporated by operation of law in the grant, cooperative agreement, contract or other arrangement whereby Federal financial assistance under Title 1 of the WIA is made available.

#### ◆ UNIVERSAL ACCESS

Recipients must take appropriate steps to ensure that they are providing universal access to the WIA Title 1-financially assisted programs and activities. These steps should involve reasonable efforts to include members of both sexes, various racial and ethnic groups, individuals with disabilities and individuals in differing age groups. Reasonable efforts may include contacts with community groups, schools, organizations that provide services to the disabled, and also with minority organizations. WIBs must have a strategy for meeting this requirement and be prepared to provide such information upon request to the DWD EO Officer.

#### ◆ COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973

In providing any aid, benefits, services or training under a WIA Title 1-funded program or activity, a recipient must not, directly or through contractual licensing, or other arrangements, deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefits, services, or training on the basis of a disability.

Recipients must provide for reasonable accommodations, modification of programs and architectural accessibility for individuals with disabilities

Programs/activities must be administered in the most integrated setting.

Communications with persons with disabilities must be as effective as communications with others.

Recipients must also make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity.

In circumstances where a recipient believes that the proposed accommodation/modification would cause undue hardship, the recipient has the burden of proving that the accommodation would result in such hardship.

#### ◆ DATA & INFORMATION COLLECTION & MAINTENANCE

Each recipient must collect and maintain records to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of the WIA.

Records must be collected and maintained on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status of the specified groups.

The records must be stored in a manner that ensures confidentiality and used only for purposes of recordkeeping and reporting, determining eligibility for WIA Title 1-funded programs or activities or other uses as authorized by law.

Recipients must maintain and submit to DWD, as required by DWD policy, log of complaints that allege discrimination. The log must include the name and address of the complainant, the grounds for the complaint, a description of the complaint, the date the complaint was filed, and the disposition of the complaint.

Each recipient must maintain said records for a period of not less than three years from the close of the applicable program year.

Records regarding complaints and actions taken on complaints must be maintained for a period of not less than three years from the date of resolution of the complaint.

Grant applicants and recipients must notify DWD of any administrative enforcement actions or lawsuits filed regarding discrimination.

#### ◆ MONITORING RECIPIENTS FOR COMPLIANCE

DWD will establish and publish procedures for the periodic monitoring of programs and activities operated under WIA Title 1 for compliance with the nondiscrimination requirements.

The procedures will provide for:

- (a) a statistical analysis of records and data;
- (b) an investigation of any significant differences noted in the data analysis;
- (c) an assessment to determine whether the recipient has fulfilled its administrative obligations under section 188, e.g. recordkeeping and notice requirements.
- (d) Procedures for obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance is found.

◆ COMPLAINT PROCESSING PROCEDURES

DWD will develop and publish procedures for processing complaints of discrimination.

New procedures will provide for an Alternative Dispute Resolution process.

◆ CORRECTIVE ACTIONS/SANCTIONS

Where violations of the WIA Section 188 are found and voluntary compliance has not been achieved, DWD may implement the sanction procedures as provided by DWD Communication #98-59.

EFFECTIVE DATE

Upon receipt

ENDING DATE

Until rescinded

ACTION

The information contained within must be disseminated to all WIA One-Stop Partners for implementation. WIBs should provide information on their designated EO contact to the Chief Legal Counsel, Department of Workforce Development, 10 N. Senate Ave – Room 105, Indianapolis, IN. 46204 as soon as possible. Questions regarding this communication should be directed to Fay Stewart at (317) 232-7484.

CC: WIB Chairs  
WIB Directors  
Program Directors